



October 8, 2001

Ms. Barbara Boulware-Wells
Assistant City Attorney
City of Cedar Park
P.O. Box 684633
Austin, Texas 78768

OR2001-4526

Dear Ms. Boulware-Wells:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 152911.

The City of Cedar Park (the "city"), which you represent, received a request for the name and telephone number of an individual at a specified address supplied by the requestor. You have submitted for our review a "Residential Application" that contains the information responsive to the request. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception protects information that is made confidential by another statute. Section 182.052 of the Utilities Code provides in relevant part:

- (a) Except as provided by Section 182.054, a government-operated utility may not disclose personal information in a customer's account record if the customer requests that the government-operated utility keep the information confidential.

Util. Code § 182.052(a).¹ The information you have submitted indicates that the requested information is contained in a city utility record. You inform us that the individual utility customer in question requested confidentiality for his personal information, and our review of the information at issue indicates this request for confidentiality by the individual was made prior to the city's receipt of the present information request. None of the exceptions to confidentiality listed in section 182.054 appears to be applicable, and you represent that they are inapplicable. Therefore, based on your representations and our review of the submitted information, we conclude that the individual's personal information contained in the submitted document is confidential under section 182.052 of the Utilities Code. *See also* Open Records Decision No. 625 (1994) (construing statutory predecessor).

We note, however, that the phrase "personal information" as used in section 182.052(a) means an individual's address, telephone number, or social security number. *See* Util. Code § 182.051(4). In this instance, the request is for the individual's name and telephone number. We conclude that the requested telephone number is confidential. Because the individual's name does not meet the definition of personal information, this information is not confidential under section 182.052(a). As you make no other argument for withholding the individual's name, we conclude that the individual's name must be released.²

Finally, we note that the submitted document contains other information that is or may be confidential. However, because none of the remaining information contained in the submitted document is responsive to the present request, it need not be released. Therefore, the remaining information in the document is not further addressed in this decision.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full

¹Formerly sections 2 and 4 of article 1446h, Vernon's Texas Civil Statutes. *See* Act of May 8, 1997, 75th Leg., R.S., ch. 166, § 1, 1997 Tex. Gen. Laws 713, 991.

²We acknowledge that the submitted notice, which indicates that the individual requested confidentiality, states that the individual may elect confidentiality for the individual's name, address, or telephone number. However, unless authorized by law to do so, a governmental body cannot, by contract or otherwise, promise to maintain as confidential information that is subject to the Public Information Act. Attorney General Opinion H-258 at 3 (1974); *see* Attorney General Opinions JN-672 at 1-2 (1987), JM-37 at 2 (1983); Open Records Decision Nos. 585 at 2 (1991), 514 at 1 (1988), 55A at 2 (1975). You cite to no law that authorizes the city to promise confidentiality with regard to the individual's name, nor are we aware of any.

benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

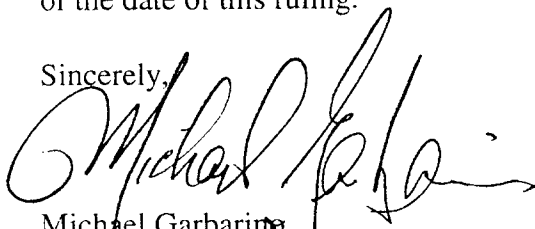
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Garbarino", is written over the typed name and title.

Michael Garbarino
Assistant Attorney General
Open Records Division

MG/seg

Ref: ID# 152911

Enc. Submitted documents

c: Mr. Michael J. Weeks
Weeks & Associates, L.L.P.
608-C West 12th Street
Austin, Texas 78701
(w/o enclosures)